UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,031	04/21/2006	Markus Schmidt	32860-000964/US	5552

30596 7590 09/16/2010

HARNESS, DICKEY & PIERCE, P.L.C.
P.O.BOX 8910
RESTON, VA 20195

EXAMINER	
COLBERT, ELLA	

ART UNIT	PAPER NUMBER
3694	

NOTIFICATION DATE	DELIVERY MODE
09/16/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

dcmailroom@hdp.com
siemensgroup@hdp.com
pshaddin@hdp.com

Office Action Summary	Application No.	Applicant(s)	
	10/562,031	SCHMIDT ET AL.	
	Examiner	Art Unit	
	Ella Colbert	3694	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 July 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *See Attached*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-19 are pending. Claims 1-3,6-9, 11-14, and 16-19 have been amended in this communication filed 7/01/10 entered as Response After Non-final Rejection. All of the IDSs that have been submitted have been reviewed, entered and attached to this Office Action.

2. The claim objections for claims 1-3, 6, 7, 11, and 12 have been overcome by Applicants' amendments to the claims and are hereby withdrawn.

3. The 35 USC 112, second paragraph rejections from the prior Office Action have been overcome by Applicants' amendments to the claims and are herby withdrawn.

Abstract

The abstract of the disclosure is objected to because The Abstract recites "Disclosed is a method for admitting ... According to the method, ... is received, and the quality thereof is assessed by the transmission device. The ...". The abstract would be better recited as "Disclosed is a method and an apparatus for admitting ... According to the method and apparatus, ... is received, and the quality is assessed by the transmission device. The ...". Correction is required. See MPEP § 608.01(b).

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Fig. 1, element "6" and Fig. 2, element "N" are not found in the Specification. However, the Specification mentions the dashed lime of element "7". Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the

specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 103(a) that forms the basis for the rejections under this section made in this Office action:

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 2, 11, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 5,960,403) Brown.

Claim 1. Brown discloses, A method for admitting an information provider to transmit information via a transmission device for transmitting information between information providers and information seekers, the method comprising:

receiving test data which by an information provider to the transmission device representing information offered by the information provider (col. 3, line 33-col. 4, line 4); evaluating the quality of the test data by the transmission device (col. 4, lines 5-14); and admitting the information provider by the transmission device to the method for transmitting information between information providers and information seekers in dependence on the quality of the test data (col. 5, lines 4-25).

Claim 2. Brown discloses, The method as claimed in claim 1, wherein the reception of test data is preceded by the following steps:

receiving offer signaling data which have been transmitted to the transmission device by an information provider (col. 9, lines 31-48), and sending test request data from the transmission device to the information provider (col. 9, line 49-col. 10, line 12).

Claim 11. This independent claim is rejected for the similar rationale as given above for claim 1.

Claim 16. This independent claim is rejected for the similar rationale as given above for claims 1 and 11.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 3-10, 12-15, and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 5,960,403) Brown as applied to claims 1, 2, 11, and 16 above, and further in view of (WO 02/06990) Jacobson.

Claim 3. Brown discloses, The method as claimed in claim 1, further comprising: receiving information enquiry data which has been transmitted to the transmission device by information seekers (col. 10, lines 24-46), receiving information offer data which has been transmitted to the transmission device by an admitted information provider and which represents information offered by the respective information provider (col. 10, line 47-col. 11, line 7). Brown failed to disclose, comparing the information enquiry data and the information offer data for determining corresponding information enquiry data and information offer data, and transmitting search result data to a terminal of an information seeker if the information enquiry data of the information seeker corresponds to the information offer data of an information provider. Jacobson discloses, comparing the information enquiry data and the information offer data for determining corresponding information enquiry data and information offer data (Pg. 6, lines 1-24), and transmitting search result data to a terminal of an information seeker if the information enquiry data of the information seeker corresponds to the information offer data of an information provider (Pg. 7, lines 1-26). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the teachings of Jacobson in Brown because such an incorporation would allow Brown to receive the data that a search engine retrieves from a user inquiry for information.

Claim 4. Brown discloses, The method as claimed in claim 1, wherein at least one of

test data and information offer data are transmitted encrypted between an information provider and the transmission device (col. 11, line 57-col. 12, line 19).

Claim 5. Brown discloses, The method as claimed in claim 1, wherein at least one of information enquiry data and/or search result data are transmitted encrypted between an information seeker and the transmission device (col. 10, lines 13-46).

Claim 6. Brown discloses, The method as claimed in claim 1, wherein the evaluation of the quality of the test data is stored correlated with the corresponding information provider in the transmission device in order to generate an evaluation history correlated with the corresponding information provider (col. 10, line 62-col. 11, line 35), and that the admission of the information provider by the transmission device is dependent on the evaluation history of the information provider (col. 10, line 62-col. 11, line 35 and line 57-col. 12, line 60).

Claim 7. Brown discloses, The method as claimed in claim 1, wherein the quality of the information transmitted to an information seeker is evaluated by the information seeker, wherein the evaluation of the quality is transmitted from the information seeker to the transmission device and is stored correlated with the corresponding information provider in the transmission device in order to generate an evaluation history correlated with the corresponding information provider (col. 11, line 36-col. 12, line 19. Brown and Jacobson failed to disclose, wherein the admission of the information provider by the transmission device is dependent on the evaluation history of the information provider. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the admission of the information provider by the

transmission device to have access to the transmission information between information providers and information seekers dependent on the evaluation history of the information provider in order to have better and faster communication between the information providers and the information seekers.

Claim 8. Brown and Jacobson failed to disclose, The method as claimed in claim 1, wherein an information seeker first transmits the information enquiry data to an enquirer function unit allocated to the information seeker and the information enquiry data are automatically forwarded at least partially from the enquirer function unit to the transmission device and the transmission device transmits the search result data to the enquirer function unit which sorts or normalizes information offer data contained therein and associated information provider data before being transmitted to the information seeker. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have an information seeker first transmit the information enquiry data to an enquirer function unit allocated to the information seeker and the information enquiry data automatically forwarded at least partially to the transmission device and the transmission device transmit the search result data to the enquirer function unit which sorts or normalizes information offer data contained therein and associated information provider data before being transmitted to the information seeker because this allows for a faster transmission of information to an information seeker. Sorting is well-known in the art of searching for information.

Claim 9. Brown discloses, The method as claimed in claim 1, wherein at least one of, an information provider first transmits the information offer data to a provider function

unit associated with the information provider and the information offer data are automatically forwarded at least partially from the provider function to the transmission device, and the transmission device transmits information enquiry data matching the information offer data of the information provider to the provider function unit which initiates the more detailed comparison with the information represented by the information offer data by the associated data comparison device (col. 3, line 44-col. 4, line 14 and col. 6, lines 48-62) .

Claim 10. Brown discloses, The method as claimed in claim 1, wherein the evaluation of at least one of the quality and the evaluation history is transmitted to the information seeker (col. 6, line 63-col. 7, line 31).

Claim 12. This dependent transmission device claim corresponds to the method claim 3 and is rejected for the similar rationale as given above for Claim 3.

Claims 13, 14, 18, and 19. Brown discloses, comprising a storage device to store the evaluation of the quality of test data (col. 5, line 33-col. 6, line 6).

Claim 15. This dependent claim is rejected for the similar rationale as given above for claim 5.

Claim 17 . This dependent claim is rejected for the similar rationale as given above for claims 3 and 12.

Response to Arguments

Applicant's arguments filed 07/01/10 have been fully considered but they are not persuasive.

Issue no. 1: Applicants' argue: the relevant inquiry here is whether the scope of claim 1 is clear to one of ordinary skill in the pertinent art. MPEP 2171. The like of connection [between test data and] the preamble and the title of the invention does not render claim 1 unclear to one of ordinary skill, and thus does not render claim 1 indefinite has been considered but is not persuasive. Response: U.S. Examiners are trained to examine differently than European or foreign Examiners. The claims as written lack a connection in the body of the claim to the preamble. Without a connection to the preamble the preamble is accorded very little weight unless it breathes life into the claim. The claim limitations to claim 1 as written are merely interpreted as follows: receiving data (it is immaterial what type of data is being received); evaluating the quality of the data, and transmitting information between information providers to users (seekers) based on the quality of the data. The claim limitations are not claiming anything more than transmitting data from one information provider to another information provider and based on the quality of the data finally to a user (seeker). Applicants' have not done anything with the data after it is transmitted to the user (seeker). Do the users (seekers) use the data to create a report or to make a determination whether the data is quality data or not or use the data in some other way? Claims 11 and 16 have a similar issue.

Issue no. 2: Applicants' argue: Issue no. 2: Applicants' argue: Brown does not disclose or fairly suggest at least "admitting the information provider by the transmission device to transmit information between information providers and information seekers depending on the quality of the test data as required in claim 1 has been considered but

is not persuasive. Response: According to the claim limitation as written, it is interpreted that Brown discloses the claim limitation "admitting the information provider by the transmission device to transmit information between information providers and information seekers depending on the quality of the test data" in col. 9, lines 6-48. Although certain columns and line numbers are cited, the Applicants' are supposed to review the reference in its entirety since other columns and lines may also apply.

Issue no. 3: Applicants' argue: With regard to claim 1, Jacobson fails to disclose or suggest at least "admitting the information provider by the transmission device to transmit information between information providers and information seekers depending on the quality of the test data". Brown was used to reject this claim limitation, therefore this argument is considered moot. Applicants' argue the references individually as though both references were used under 35 USC 102, not as a combination of teachings as a whole. In order to clarify the record, the relationship references is further noted as follows, Brown was used in a 35 USC 102 to reject claims 1, 2, 11, and 16 and Brown and Jacobson were used in a 35 USC 103 to reject claims 3-10, 12-15, and 17-19.

Claims 16-19, various "means for are claimed, but there does not appear to be support for their corresponding structure in the disclosure, as required by 112, 6th paragraph. The Examiner respectfully requests Applicants' to either particularly point out the corresponding structures in the Specification or remove the "means for" language.

Claim 1 recites "admitting the information provider by the transmission device to the method for transmitting information ...". It is unclear how the transmission device is admitted to the method by the information provider. Do Applicants' mean "admitting the information provider by the transmission device for transmitting information ..."?

USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim should not be read into the claim. E-Pass Techs., Inc. v. 3Com Corp., 343 F.3d 1364, 1369, 67 USPQ2d 1947, 1950 (Fed. Cir. 2003) (claims must be interpreted "in view of the specification" without importing limitations from the specification into the claims unnecessarily). In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550- 551 (CCPA 1969). See also In re Zletz, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) ("During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow.... The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed.... An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process.").

"A claimed invention is unpatentable if the differences between it and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art." 35 U.S.C 103(a) (2000); *KSR Int'l v. Teleflex Inc.*, 127 S. Ct. 1727, 1734, 82 USPQ2d 1285, 1391 (2007). "The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." Id. 127 S. Ct. at 1739, 82 USPQ2d at 1395.

Also, "when a work is available in one field of endeavor, design incentatives and other market forces can prompt variations of it, either in the same field or in a different one. If a person of ordinary skill in the art can implement a predictable variation, 103 likely bars patentability." Id. 127 S. Ct. at 1740, USPQ2d at 1396.

Resort can be had to case law regarding the rational supporting the motivation for combining references as follows: "We have noted that evidence of a suggestion, teaching, or motivation to combine references may flow from the prior art references themselves, the knowledge of one of ordinary skill in the art, or, in some cases, from the nature of the problem to be solved". *In re Dembiczak*, 50 USPQ2d 1614.

Also see, *In re Nilssen* (CAFC) 7 USPQ2d 1500 (7/13/1988). "Nilssen urges this court to establish a "reality-based" definition whereby, in effect, references may not be combined to formulate obviousness rejections absent an express suggestion in one prior art reference to look to another specific reference. We reject that recommendation as contrary to our precedent which holds that for the purpose of combining references, those references need not explicitly suggest combining teachings, much less specific references." See, e.g., *In re Semaker*, 702 F.2d 989, 995, 217 USPQ 1, 6 (Fed. Cir. 1983); *In re McLaughlin*, 443 F.2d 1392, 1395, 170 USPQ 209, 212 (CCPA 1971).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Inquiries

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 571-272-6741. The examiner can normally be reached on a Flexible Schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Trammell James can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ella Colbert/
Primary Examiner, Art Unit 3694

September 9, 2010